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Via Fax and Email

Mr. Richard Clark
Director
Consumer Protection and Safety Division
California Public Utilities Commission
505 Van Ness Avenue, Room 2205
San Francisco, CA 94102

*Re: Draft Resolution UEB-001, Compliance with Public
Utilities Code §2889.5*

Dear Mr. Clark:

Thank you for the opportunity to provide comments on Draft Resolution UEB-001 and on issues raised at the related workshop held on April 11, 2006. TURN was unable to send a representative to the workshop, but wanted to take this opportunity to provide a brief set of comments on the proposal contained in the Draft Resolution.

TURN supports the efforts of CPSD to streamline the enforcement process of the current slamming regulations. We recognize that overall slamming complaints have decreased. We believe this is, at least in part, because of the adoption of clear, enforceable slamming rules (including the TPV requirement). However, consumers are still at risk from unscrupulous carriers. The process as proposed in the Draft Resolution appears to be a step in the right direction toward efficient and effective enforcement, thereby increasing the likelihood such unscrupulous carriers will be brought to justice. TURN focuses its comments on two issues that we believe will help streamline and strengthen the slamming enforcement processes even further.

- Additional Notice Requirements Will Weaken the Effectiveness of the Program

First, TURN understands that the carriers raised concerns during the workshop that they would not have enough notice and opportunity to cure or clarify the situation before staff issues a citation. TURN disagrees. As outlined in the Draft Resolution, a citation would only be issued if 1.) a customer made an informal complaint, 2.) Consumer Affairs

Branch investigated that informal complaint including contacting the carrier, 3.) the carrier could not produce the third party verification tape as required by PU Code 2889.5 or could not provide evidence to verify the legitimacy of the transaction, 4.) the informal complaint was forwarded to CPSD, and 5.) CPSD informs the carrier that a citation will be issued and provides the specific basis for the citation. Only after these five steps, most of which involve the carrier, would CPSD issue a citation.

The carrier will be well-aware of the complaint as a result of CAB's investigation. Further, the carrier will know if it has produced the required TPV tape or documentation long before a citation is issued. The Draft Resolution already provides for an informal step in the process calling on CPSD to inform the carrier prior to issuing the citation. Presumably, at that time the carrier can inform the CPSD representative of any extenuating circumstances that may be unknown to the Commission. In addition, TURN would support a requirement that CAB inform the carrier during the informal complaint investigation that a citation may issue if it cannot comply with the TPV requirement. An *additional*, formal warning letter from CPSD to the carrier granting the carrier a set amount of time to respond before the citation is issued is unnecessary. It will cause delay and weaken the program's ability to streamline or expedite the process.

Once a citation is issued, carriers also have numerous opportunities to contact Commission staff to clear up any confusion that may have led to a citation being issued erroneously or unfairly. The Draft Resolution does not prohibit CPSD staff from withdrawing a citation within the 30 calendar days prior to the deadline for an appeal, if the staff determines, based upon documented support from the carrier, such a citation was issued erroneously. The Draft Resolution also proposes a detailed appeals process that further protects due process rights. TURN opposes the attempt to add in an extra unnecessary notice provision because it will unreasonably delay the process and increase bureaucratic red tape.

- Public Notice of Citations Increases Consumer Empowerment

Second, TURN is informed that the participants at the workshop discussed the topic of posting slamming complaint data and citation information onto the Commission's website where it will be available to the public. TURN strongly supports adding this proposal to the Draft Resolution. Naturally, strict guidelines and rules will have to be in place to ensure that carriers are not prematurely included, but this should not stop the Commission from creating access to such valuable information thereby creating consumer empowerment.

At a recent workshop hosted by the Consumer Service and Information Division on consumer education issues, TURN highlighted the importance of posting informal and formal complaint data on the Commission's website within easy access for consumers. In order to make proper economic decisions and avoid any pitfalls in this increasingly confusing industry, consumers must be informed of the types of complaints, types of carriers and, in some instances, the specific carriers that are the cause of complaints handled by the Commission. Indeed, other state commissions such as the New York Public Service Commission and the Illinois Commerce Commission post detailed complaint statistics on their websites. (see,

Richard Clark

April 17, 2006

Page 3

<http://www.dps.state.ny.us/March2006Final.pdf> for the March 2006 Complaint Statistics Report or <http://www.icc.illinois.gov/docs/ci/050421CSDAnnual04.pdf> for a 2004 Report from the ICC) This slamming citation program is just one piece of a larger puzzle, but should not be overlooked.

There are two types of information that should be posted on the website. First, the Commission should make available through the website the aggregate number of citations issued monthly, the amounts of the citations, and how much money the Commission is collecting on a monthly or perhaps quarterly basis from the citation program. This information will help consumers and consumer advocates judge the effectiveness of the program and ensure that the statistics match our understanding of the current level of slamming complaints.

Second, TURN strongly believes the Commission should list information about each individual citation, including the name of the carrier, CPCN number, the amount of the citation, the date of the citation, how many citations have been issued to this carrier within 90 days, and whether or not the carrier has filed an appeal or paid the fine. This information should be listed only once the 30 day period from the issuance of the citation has run and all possible mistakes or misunderstandings have been resolved. Any further delay in posting this information would harm consumers and make the program less of an effective tool to ensure compliance with the TPV requirements. TURN strongly encourages the Commission to take a big step towards creating an informational resource for consumers by posting this valuable information online.

If you have any further questions or comments, I would be happy to discuss my comments. Thank you, again, for allowing TURN the opportunity to provide comments.

Sincerely,

/s/

Christine Mailloux

Telecommunications Attorney

cc: Linda Woods
Workshop Participants
R.00-02-004 Service List